STATE OF MONTANA

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BIENNIAL REPORT

OF THE

Secretary of State

FOR THE PERIOD

July 1, 1926, to June 30, 1928

TO THE

GOVERNOR OF MONTANA

1928



JOHN W. MOUNTJOY Secretary of State



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JOHN W. MOUNTJOY Secretary of State Digitized by the Internet Archive in 2014

STATE OF MONTANA

DEPARTMENT OF SECRETARY OF STATE

Helena, Montana, November 28, 1928.

Hon. J. E. Erickson,
Governor of Montana,
Helena, Montana.

Dear Sir:

I have the honor to submit herewith the Biennial Report of this Department covering the period of July 1, 1926, to and including June 30, 1928, as required by the provisions of Section 519 Revised Codes of Montana, 1921.

I am pleased to invite your attention to the fact that the General Fund fees now collected by this Department have totaled, with but two exceptions, the largest for any single year in the history of the office. Over a period of the last fourteen years the General Fund fees collected by this office totaled \$1,032,400.04. The lowest yearly collections existed in 1915 when the total collections amounted to \$40,205.96. The 1928 total to June 30 shows an increase of more than 100% over the 1914 total, the collections for this particular year being \$80,888.04.

The increase over this period of years, while partly accounted for by reason of legislation increasing filing fees generally, is mainly due, I believe, to increased commercial activities in Montana, as shown by the large number of corporations created during this period.

I respectfully invite your attention to the following condition which exists under the provisions of Section 6538 of the Civil Code of Montana relating to railroad corporations.

This section allows a flat fee of \$16 for each lease of equipment recorded under the provisions of the act. There was tendered to this office in August last, several equipment leases of the character mentioned, for which this office could collect a fee of only \$16 each. Since all other classes of corporations are charged at the rate of 20c per folio of 100 words for recording papers of similar character, I believe Section 6538 should be amended so as to place the recording of a railroad equipment lease upon the same basis as that specified in Section 145 Revised Codes of 1921. The benefit of such a change in Section 6538 will be apparent when I point out that had the 20c folio charge existed this year, an additional revenue of several hundred dollars could have been realized from this class of work alone.

Under the provisions of Section 5908, the Secretary of State may not issue a certificate of incorporation to a proposed corporation having the same or similar name as that of an existing domestic corporation. The Attorney General in two instances has given his opinion that this section also applies to foreign corporations entering Montana which have the same name as that of an existing Montana corporation.

In order that this Department may avoid litigation which seems imminent, I respectfully recommend the passage of a law which also limits the Secretary of State from admitting a foreign corporation to the State which has the same or similar name to that of an existing domestic or foreign corporation. I see no reason why the same statute should not apply to foreign as well as domestic corporations.

During the Twentieth Legislative Assembly a resolution was passed restricting the number of copies of the session laws which should be bound in buckram and those which should be bound in paper covers. In publishing these session laws, this Department followed the resolution as closely as possible, but in doing so, it was found necessary to send many paper-bound volumes for use of foreign states. Complaints immediately arose from the State Libraries of Connecticut, North Carolina, Georgia, and others, asking for the more permanently bound books. If a resolution is necessary to control the publication of these laws, I would recommend one that will at least give the Department the more permanently bound volumes, so that no embarrassment may be experienced in supplying the libraries of foreign countries and states.

Under Section 155 Revised Codes of Montana 1907, the Secretary of State was authorized to distribute the house and senate journals to members of the House and Senate of Montana. In 1921, by Sec. 1, Chapter 126, the Legislature saw fit to repeal this particular provision. The repeal was made as an economy measure at the time. The result has been since 1921 that no journals could be distributed to members of the House and Senate although numerous resolutions have been made, looking to the distribution of these copies to members. The Attorney General has intimated in an opinion dated March 19, 1927, that a resolution does not amend a statute, and I was therefore thrown back upon the provisions of Sec. 1, Chapter 126, laws of 1921. (Sec. 135 R. C. 1921).

In this matter I recommend, if it is the desire of the Twenty-first Assembly to supply its members with the journals, that amendment be made to Sec. 135, Revised Codes of 1921, authorizing and directing the Secretary of State to supply the same.

I further respectfully invite your attention to the following recommendations contained in the report of my predecessor for the biennium ended June 30, 1926:

"FOREIGN CORPORATIONS: Foreign corporations transacting business in this State are very negligent about filing their annual statements. Many of them are from one month to five years late in doing so. Others pay no attention to the

notices mailed from this office, and while Chapter 95, laws of 1925, declares a forfeiture of the right to do business, yet no method is provided whereby this law may be enforced. We suggest that the law be strengthened in such a way that the State's machinery may be brought to bear promptly on those companies not filing within the specified time."

The report further continues:

"Foreign corporations are permitted to enter the State, having capital stock of "no par value," while under the statute covering chartering of Montana or domestic corporations, these corporations are required to specify a par value. In this respect, the domestic corporations are being discriminated against as compared with foreign corporations, contrary to the provisions of Article 15, Section 11 of the Constitution."

In 1926 report, the following recommendation appears:

"Under the Constitution, this Department is required to publish proposed amendments thereto, in each county for three months prior to the General Election, this costing the State an average of approximately \$10,079.23 for each amendment. In addition to this expense, we find that under Sections 537-8 of the Revised Codes, a law that requires the County Clerk and Recorder to publish the same amendment for a period of three weeks prior to the election in each county in the State. This of course means a duplication. In other words, the newspaper carrying the publication ordered by the State, will also carry in its columns at the same time the same amendment ordered by the County Clerk. We therefore recommend that Sections 537 and 538 be repealed."

The Legislature by enactment of Chapter 62, laws of 1927, has, at least impliedly, followed this recommendation, so that it was found unnecessary for this Department to certify for publication Initiative measure No. 32. It was, however, still necessary to certify for publication, the proposed constitutional amendment Chapter 72, laws of 1927, thus resulting again in unnecessary expense to the people of Montana by reason of duplicate publication of this amendment. I, therefore, recommend the repeal of Sections 537 and 538. These two sections are entirely unnecessary in my opinion and are costing the people of Montana much money at every election.

There now exists a conflict between Section 145 and Section 4288 Revised Codes of 1921, covering the registration of trade marks. Section 145, requires the payment of a fee of \$6 for the registration, whereas Section 4288, requires payment of a fee of but \$3. When amendment was made to Sec. 145 in 1921, it was evidently the intent of the Legislature that the trade mark registration fee should be \$6. It appears, however, that while this section requires the Secretary of State to collect a fee of \$6, Section 4288 is a special statute and will probably govern in case the fee fixed by Sec. 145 is questioned. I therefore recommend amendment to Sec. 4288, definitely fixing the registration fee as \$5 and \$1 for certification of extra copy.

The work of this Department has increased yearly. There is much work to be done, particularly in the matter of recording, which is de-

layed by reason of lack of appropriation. The appropriation allowed this office for the general expenses of the fiscal year ending June 30, 1929, is now completely exhausted, with six months to go, and it is therefore apparent that an additional appropriation for this office must be requested and given in order that the Department may function properly for the balance of the fiscal year. An approximate estimate of the funds required will total \$2,000.00. A summary of Budget requests will be found on page 9A of this report.

During this Biennium this Department has been served by four Secretaries of State, as follows:

C. T. Stewart, to March 4, 1927.R. N. Hawkins, March 5, 1927, to April 30, 1927.William Powers, May 1, 1927, to April 15, 1928.

John W. Mountjoy, from April 16, 1928.

Following will be found a Summary of Receipts and Disbursements of the Department and a Report of Candidates' Expenses at both Primary and General Elections of 1928, as required by the provisions of Section 10782:

SUMMARY OF FEES COLLECTED Fiscal Year Ending June 30, 1927

Trade Marks 1 Commissioner of Deeds 2 Building and Loan	57.91 90.00 52.10 26.00 20.00 50.00 90.60 5.00 1.60
	73.30

SUMMARY OF FEES COLLECTED Fiscal Year Ending June 30, 1928

Domestic Corporations\$43,166.20
Foreign Corporations
Notarial Commissions
Certificates and Certified Copies
Railroad and Ticket Agent's Licenses
Official Bonds
Warrants and Requisitions
Trade Marks
Commissioner of Deeds
Building and Loan
Elections 6,661.00
Miscellaneous
Total Total

STATEMENT OF DISBURSEMENTS

Fiscal Year Ending June 30, 1927

Salaries Clerical Hire Telephone and Telegraph Supplies Traveling Expenses Express and Cartage Postage and Stamped Envelopes Montana Reports Contingent and Miscellaneous Capital Expenditures Repairs and Replacements	5,200.00 140.96 698.85 10.00
Election Expenses:	\$14,035.21
Publication Constitutional Amendments	3
Total	\$15,559.50 \$29,594.71
STATEMENT OF DISBURSEMENTS	
Fiscal Year Ending June 30, 1928	
Salaries Clerical Hire Telephone and Telegraph Supplies Traveling Expenses Express and Cartage Postage and Stamped Envelopes Montana Reports Contingent and Miscellaneous	5.500.00
THE STATE OF THE S	\$14,223.49
Election Expenses:	
Miscellaneous Costs	263.54
•	263.54
Miscellaneous Costs	263.54
Miscellaneous Costs	263.54
Miscellaneous Costs Total COMPARATIVE STATEMENT OF FEES RECEIVED FROM ALL STATEMENT	\$14,487.03 \$0URCES \$47,365.25 40,205.96 58,352.37 68,545.91 48,874.41 65,134.30 89,681.25 70,327.91 68,739.58 117,816.57 72,786.59
Miscellaneous Costs Total COMPARATIVE STATEMENT OF FEES RECEIVED FROM ALL S 1914-1928 For the fiscal year 1914 For the fiscal year 1915 For the fiscal year 1917 For the fiscal year 1917 For the fiscal year 1919 For the fiscal year 1919 For the fiscal year 1919 For the fiscal year 1920 For the fiscal year 1920 For the period Dec. 1, 1920, to June 30, 1921, beginning a new fiscal year For the fiscal year 1922 For the fiscal year 1923 For the fiscal year 1923 For the fiscal year 1924 For the fiscal year 1924 For the fiscal year 1925	\$14,487.03 \$0URCES \$47,365.25 40,205.96 58,352.37 68,545.91 48,874.41 65,134.30 89,681.25 70,327.91 68,739.58 117,816.57 72,786.59
Miscellaneous Costs Total COMPARATIVE STATEMENT OF FEES RECEIVED FROM ALL S 1914-1928 For the fiscal year 1914 For the fiscal year 1915 For the fiscal year 1916 For the fiscal year 1917 For the fiscal year 1918 For the fiscal year 1918 For the fiscal year 1919 For the fiscal year 1920 For the period Dec. 1, 1920, to June 30, 1921, beginning a new fiscal year For the fiscal year 1922 For the fiscal year 1922 For the fiscal year 1924 For the fiscal year 1925 For the fiscal year 1925 For the fiscal year 1927 For the fiscal year 1928	\$14,487.03 \$0URCES \$47,365.25 40,205.96 58,352.37 68,545.91 48,874.41 65,134.30 89,681.25 70,327.91 68,739.58 117,816.57 72,786.59

FINANCIAL STATEMENTS OF CANDIDATES FOR STATE OFFICE FOR THE PRIMARY NOMINATING ELECTION HELD JULY 17th, 1928

FOR UNITED STATES SENATOR:	
Samuel V. Stewart \$ Sam W. Teagarden Burton K. Wheeler Joseph M. Dixon Charles F. Juttner Charles H. Williams	646.50 353.80 813.28 1,281.81 31.00 926.95
FOR REPRESENTATIVE IN CONGRESS:	
First Congressional District.	
John M. Evans John W. Mahan Stanley Scearce Charles S. Wagner Mark D. Fitzgarrald	709.38 252.00 681.05 25.00 382.49
FOR REPRESENTATIVE IN CONGRESS:	
Second Congressional District.	
B. A. Taylor Scott Leavitt	$6.90 \\ 100.00$
FOR CHIEF JUSTICE OF THE SUPREME COURT:	
Walter Aitken H. L. Maury Llewellyn L. Callaway	76.00 354.50 167.46
FOR ASSOCIATE JUSTICE OF THE SUPREME COURT:	
Henry L. Myers John J. Greene Albert Anderson Miles J. Cavanaugh S. C. Ford Albert H. Angstman Albert P. Stark	85.00 75.00 390.79 576.40 755.73 326.12 84.15
FOR GOVERNOR:	
Roy E. Ayers John E. Erickson Lee Dennis W. J. Paul Wellington D. Rankin J. W. Walker	1,002.41 75.00 959.08 592.77 1,002.75 660.43
FOR LIEUTENANT GOVERNOR:	
F. H. Cooney Warren Toole Frank A. Hazelbaker W. S. McCormack	87.50 82.43 94.64 100.00
FOR ATTORNEY GENERAL:	
George Bourquin E. Pat Keliy L. A. Foot	$207.00 \\ 494.94 \\ 55.00$
FOR SECRETARY OF STATE:	
John W. Mountjoy J. Frank Cone W. E. Harnion	79.50 333.81 344.39
FOR STATE TREASURER:	
Thomas E. Carey Sam J. Hampton Dick Baker E. E. Esselstyn H. J. Faust F. E. Williams	54.50 115.11 528.27 593.85 709.24 627.70
FOR STATE AUDITOR:	
Peter J. Kelly George P. Porter	$\frac{42.00}{209.75}$

FOR SUPERINTENDENT OF PUBLIC INSTRUCTION:

FOR SUPERINTENDENT OF PUBLIC INSTRUCTION:	
Walker B. Carroll Ella Crowley Rowland Elizabeth Ireland May Trumper	99.24 59.65 419.36 532.42
FOR RAILROAD AND PUBLIC SERVICE COMMISSIONER:	
W. J. Keeley Daniel Boyle Bob McMillan Jess H. Stevens Arthur G. Waite	86.25 191.70 40.00 131.02 514.48
FOR CLERK OF THE SUPREME COURT:	
Miss Mary E. O'Neill John Ward Crosby	Nil. 40.00
FOR JUDGES OF THE DISTRICT COURTS:	
First Judicial District:	
I. W. Choate A. J. Horsky W. H. Poorman	159.36 85.25 111.00
Second Judicial District:	
Michael C. Donlan T. E. Downey Jeremiah J. Lynch Frank L. Riley George D. Toole Henry A. Tyvand William E. Carroll F. C. Fluent M. S. Galasso	265.70 225.50 82.20 56.88 115.95 220.20 60.50 48.00 Nil.
Third Judicial District:	
George B. Winston	48.00
Fourth Judicial District:	
A. A. Alvord Asa L. Duncan Theodore Lentz James M. Self	48.00 48.00 Nil. 48.00
Fifth Judicial District:	
M. H. Parker George R. Allen Lyman H. Bennett Henry G. Rodgers	48.00 150.44 200.50 53.00
Sixth Judicial District:	
Benjamin E. Berg Ed. C. Jones Hugh J. Miller Martin Vetleson	$\begin{array}{c} 124.50 \\ 62.38 \\ 310.68 \\ 308.81 \end{array}$
Seventh Judicial District:	
Frank P. Leiper	48.00
Eighth Judicial District:	
Stephen J. Cowley Harry H. Ewing Ray M. Armour Howard G. Bennet W. P. Costello Fred A. Ewald John McKenzie W. H. Meigs	Nil. 48.00 244.86 193.80 101.81 263.34 259.05 236.64
Ninth Judicial District:	
Ben B. Law Lloyd M. Johnson M. R. Wilson	Nil. 90.15 72.00

Tenth Judicial District:	
Stewart McConochie W. T. McKeown Edgar J. Baker John C. Huntoon	48.00 53.00 49.80 68.90
Eleventh Judicial District:	
C. H. Foot C. W. Pomeroy J. E. Rockwood	$\begin{array}{c} 166.05 \\ 213.11 \\ 166.05 \end{array}$
Twelfth Judicial District:	
Charles S. Hartman Charles W. Wiley	$78.75 \\ 48.00$
Thirteenth Judicial District:	
Chris W. Demel John B. Tansil O. F. Goddard Robert C. Stong	48.00 109.47 48.00 Nil.
Fourteenth Judicial District:	
William L. Ford	37.00
Fifteenth Judicial District:	
W. W. Barton George A. Horkan G. J. Jeffries	$48.00 \\ 239.18 \\ 166.00$
Sixteenth Judicial District:	
Stanley E. Felt S. D. McKinnon	Nil. 48.00
Seventeenth Judicial District:	
John Hurly	48.00
Eighteenth Judicial District:	
R. V. Bottomly Charles B. Elwell Charles A. Rose	50.00 343.20 116.10
Nineteenth Judicial District:	
	150.25
D. W. Doyle Jesse G. Henderson John W. Coburn R. M. Hattersley	$ \begin{array}{c} 105.20 \\ 105.20 \\ 24.00 \\ 285.15 \end{array} $
Twentieth Judicial District:	
J. J. Gunther George Cudhie S. E. Paul	$48.00 \\ 239.10 \\ 303.58$
TOTAL EXPENSE ACCOUNTS FOR EACH OFFICE	
PRIMARY NOMINATING ELECTION, HELD JULY 17, 1928	
UNITED STATES SENATOR\$	4,053.34
REPRESENTATIVE IN CONGRESS, First District	2,049.92
REPRESENTATIVE IN CONGRESS, Second District	106.90
CHIEF JUSTICE OF THE SUPREME COURT	597.96 2,293.19
GOVERNOR	4,292.44
LIEUTENANT GOVERNOR	364.57
ATTORNEY GENERAL	756.94
SECRETARY OF STATE	757.70 2,628.67
STATE AUDITOR	251.75
SUPERINTENDENT OF PUBLIC INSTRUCTION	1,110.67
RAILROAD AND PUBLIC SERVICE COMMISSIONER	963.45
CLERK OF THE SUPREME COURT	40.00
GRAND TOTAL\$2	28,053.89

FINANCIAL STATEMENTS OF CANDIDATES FOR STATE OFFICE FOR THE GENERAL ELECTION HELD NOVEMBER 6, 1928

FOR PRESIDENTIAL ELECTORS:	
Wm. Bole John A. Lovelace Walter L. Pope Mary Simonson Mrs. W. J. Jameson, Jr. George McCone J. D. Scanlan Dan Whetstone Wm. S. Baker Lylith W. Brown Kate Fitzpatrick Herman Luehman Stanley J. Clark Petra Krogman Mary Nolan Emma Salisbury	None None None None 250.00 None None None None None None None None
FOR UNITED STATES SENATOR:	400.04
Burton K. Wheeler Joseph M. Dixon	688.94 900.00
FOR REPRESENTATIVE IN CONGRESS:	
First Congressional District:	1,622.15
John M. Evans Mark D. Fitzgarrald J. P. Cavanaugh	927.43 None
FOR REPRESENTATIVE IN CONGRESS:	
Second Congressional District:	
B. A. Taylor Scott Leavitt Jacob M. Kruse	357.47 985.00 .14
FOR CHIEF JUSTICE OF THE SUPREME COURT:	
H. L. Maury Llewellyn L. Callaway	668.89 453.80
FOR ASSOCIATE JUSTICE OF SUPREME COURT:	
(Four-Year Term)	
Henry L. Myers S. C. Ford	598.15 564.52
FOR ASSOCIATE JUSTICE OF SUPREME COURT:	
(Six-Year Term)	
John J. Greene Albert H. Angstman	697.55 484.13
FOR GOVERNOR:	0.47.00
John E. Erickson Wellington D. Rankin W. R. Duncan	347.80 720.00 56.85
FOR LIEUTENANT GOVERNOR:	
F. H. Cooney Frank A. Hazelbaker Julius Redman	102.50 90.00 None
FOR ATTORNEY GENERAL:	
George Bourquin L. A. Foot Tolly Hartwick	246.15 520.01 None
SECRETARY OF STATE:	
John W. Mountjoy W. E. Harmon Harry Hazelton	410.25 250.67 None

FOR STATE TREASURER:	
Thomas E. Carey F. E. Williams John Mathieson	85.46 415.52 None
FOR STATE AUDITOR:	
Peter J. Kelly George P. Porter P. C. Siria	259.00 327.16 None
FOR SUPERINTENDENT OF PUBLIC INSTRUCTION:	
Walker B. Carroll Elizabeth Ireland Eva May Rosenthal	313.80 122.95 None
FOR RAILROAD AND PUBLIC SERVICE COMMISSIONER:	
W. J. Keeley Daniel Boyle John E. Collett	314.80 398.35 None
FOR CLERK OF THE SUPREME COURT:	
Miss Mary E. O'Neill John Ward Crosby William Held	50.00 307.43 None
FOR JUDGES OF THE DISTRICT COURTS:	
First Judicial District:	
A. J. Horsky W. H. Poorman	50.00 50.00
Second Judicial District:	
T. E. Downey Jeremiah J. Lynch Frank L. Riley William E. Carroll F. C. Fluent M. S. Galasso	202.50 150.00 155.00 237.50 61.00 20.00
Third Judicial District:	
George B. Winston	206.75
Fourth Judicial District:	
A. A. Alvord Asa L. Duncan Theodore Lentz James M. Self	236.83 475.10 221.58 451.32
Fifth Judicial District:	
M. H. Parker Lyman H. Bennett Henry G. Rodgers	142.75 196.45 163.18
Sixth Judicial District:	
Benjamin E. Berg Hugh J. Miller	$252.82 \\ 271.00$
Seventh Judicial District:	
Frank P. Leiper	100.00
Eighth Judicial District:	
Stephen J. Cowley Harry H. Ewing John McKenzie W. H. Meigs	142.95 358.40 248.58 422.16
Ninth Judicial District:	
Ben B. Law M. R. Wilson	$327.53 \\ 124.50$
Tenth Judicial District:	
Stewart McConochie W. T. McKeown Edgar J. Baker John C. Huntoon	264.15 103.40 263.09 462.75

Eleventh Judicial District:	
C. W. Pomeroy	100.00
Twelfth Judicial District:	
Charles S. Hartman Charles W. Wiley	286.37 129.45
Thirteenth Judicial District:	
Chris W. Demel	$472.04 \\ 375.25$
Chris W. Demel John B. Tansil O. F. Goddard Robert C. Stong	479.75 380.64
Fourteenth Judicial District:	
William L. Ford	None
Fifteenth Judicial District:	
W. W. Barton G. J. Jeffries	$243.75 \\ 85.20$
Sixteenth Judicial District:	
Stanley E. Felt S. D. McKinnon	$70.00 \\ 50.00$
Seventeenth Judicial District:	30.00
John Hurly	115.00
Eighteenth Judicial District:	
R. V. Bottomly	295.74
	303.25
Nineteenth Judicial District:	
D. W. Doyle R. M. Hattersley	$207.45 \\ 450.60$
Twentieth Judicial District:	
J. J. Gunther S. E. Paul	$\frac{28.00}{43.40}$
TOTAL EXPENSE ACCOUNTS FOR EACH OFFICE, GENERAL ELE	CTION,
HELD NOVEMBER 6, 1928	
PRESIDENTIAL ELECTORS\$	250.00
UNITED STATES SENATOR	1,588.94 2,549.58
REPRESENTATIVE IN CONGESS, Second District	1,342.61
CHIEF JUSTICE OF SUPREME COURT	1,122.69
ASSOCIATE JUSTICE OF SUPREME COURT	2,344.35
GOVERNOR	1,124.65
LIEUTENANT GOVERNOR	192.50
ATTORNEY GENERAL	766.16
SECRETARY OF STATE	660.92
STATE TREASURER	500.98
STATE AUDITOR	586.16
SUPERINTENDENT OF PUBLIC INSTRUCTION	436.75
CLERK OF SUPREME COURT	713.15 357.43
GRAND TOTAL\$	14,000.07

Respectfully submitted,

JOHN W. MOUNTJOY,

Secretary of State.









